

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Hispanic Target Media Inc)	File No. EB-09-DV-0139
Licensee of Station KALN)	
Facility ID # 164178)	
Dexter, New Mexico)	NOV No. V201032800020
)	
)	

NOTICE OF VIOLATION

Released: March 31, 2010

By the District Director, Denver Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Hispanic Target Media, Inc., licensee of radio station KALN in Dexter, New Mexico. This Notice may be combined with a further action, if further action is warranted.²

2. On December 2, 2009, an agent of the Enforcement Bureau's Denver Office inspected radio station KALN, located at Roswell, New Mexico, and observed the following violations:

- a. 47 C.F.R. § 11.15: "The EAS Operating Handbook...must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions." At the time of the inspection, no EAS Operating Handbook was available.

- b. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast log as specified in §§73.1820 and 73.1840 of this chapter for all broadcast streams..." At the time of the inspection, there were no entries in the station log indicating why

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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the Required Monthly and Required Weekly tests and activations were missing since December 2008.

- c. 47 C.F.R. § 73.1350(b)(2): “The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (e) of this section that operation be terminated within three minutes.” At the time of the inspection, the remote control system consisting of a dial-up remote control system was inoperative and transmitter control personnel were unable to have positive on/off control of the transmitter.
- d. 47 C.F.R. § 73.1350(c)(1): “Monitoring procedures and schedules must enable the licensee to determine compliance with § 73.1560 regarding operating power and AM station mode of operation, § 73.1570 regarding modulation levels, and, where applicable § 73.1213 regarding antenna tower lighting, and § 73.69 regarding the parameters of an AM directional antenna system.” At the time of the inspection, no monitoring procedures and schedules were in place to check for operating power levels or modulation levels.
- e. 47 C.F.R. § 73.1400(a): “The licensee of an AM, FM, TV, or Class A TV station is responsible for assuring that at all times the station operates within tolerances specified by applicable technical rules contained in this part and in accordance with the terms of the station authorization. Any method of complying with applicable tolerances is permissible...” At the time of the inspection, a dial-up remote control system was inoperative and the transmitter control personnel were unable to determine the power output of the transmitter or confirm the operation complied with the station’s authorization.
- f. 47 C.F.R. § 73.1560(b): “Except as provided in paragraph (d) of this section, the transmitter output power of an FM station, with power output as determined by the procedures specified in § 73.267, which is authorized for output power more than 10 watts must be maintained as near as practicable to the authorized transmitter output power and may not be less than 90% nor more than 105% of the authorized power...” At the time of the inspection, KALN was operating with an output power of 45% of that authorized.
- g. 47 C.F.R. § 73.1590(a)(1) : “The licensee of each AM, FM, TV and Class A TV station, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, must make equipment performance measurements for each main transmitter as follows:...upon initial installation of a new or replacement main transmitter.” At the time of the inspection, no equipment performance measurements were

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available when the main transmitter was installed and operational in December 2008.

- h. 47 C.F.R. § 73.1870(b)(3): “The designation of the chief operator must be in writing with a copy of the designation posted with the station license.” At the time of the inspection, there was no written designation posted with the station license designating the chief operator.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission’s Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, Hispanic Target Media, Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct Hispanic Target Media, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Hispanic Target Media, Inc., with personal knowledge of the representations provided in Hispanic Target Media, Inc., response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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Denver Office
215 S.Wadsworth Blvd., Suite 303
Lakewood, Colorado 80226

6. This Notice shall be sent to Hispanic Target Media, Inc., at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).